

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.347 OF 2006

IN

CRIMINAL APPEAL NO.1055 2004

Narmada Govind Kamble

....Applicant

V/s

The State of Maharashtra
at the instance of V.P.
Road Police Stn vide
their C.R. No.215/2002

....Respondent.

Mr. P.R. Dave for the applicant.
Mr. Y.S. Shinde, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 24th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and
the learned APP for the State.

2. This is the third bail application filed by the
applicant who is aged about 44 years. The applicant
was convicted by the trial court for the offence
punishable under section 373 of the Indian Penal Code
and sections 4, 5, 6 of the PITA.

3. The only change in the circumstance, according to
the learned Counsel for the applicant, is that the
applicant has almost undergone two years of sentence.

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The learned Counsel for the applicant states that, though the paper-book is ready, the possibility of the appeal being heard expeditiously is remote.

4. The Supreme Court in the case of Kiran Kumar Vs. State of M.P. reported in **(2001) 9 SCC 211** has observed that the appellant has a statutory right to file an appeal and if the appeal is not likely to be heard, ordinarily the accused should be released on bail, otherwise the appeal itself would become infructuous if the appellant remains in jail during the pendency of the appeal. The Supreme Court in para 3 of the said judgement observed as under:-

"3. This Court has held in Bhagwan Rama Shinde Gosai Vs. State of Gujarat [(1999) 4 SCC 421 : 1999 SCC (Cri) 553] that when a person is convicted and sentenced to short-term imprisonment the normal rule is that when his appeal is pending the sentence should be suspended and rejection is only by way of exception and be put forward for such rejection. In such case also every endeavour should be made to have the appeal posted for early hearing and disposal. If the short-term sentence is allowed to run out during the

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pendency of the appeal, the appeal itself will become, for all practical purposes, infructuous so far as the appellant is concerned. It does not mean that the appellate court should suspend the sentence, if its consequence would be a danger to the society or any other similar difficulties."

5. In view of this the applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. The applicant shall report to the V.P. Road Police Station once in a month.

6. Application is accordingly disposed of.

V.M. KANADE, J.